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**FORM TO BE USED BY A PRISONER FILING A
42 U.S.C. § 1983 CIVIL RIGHTS COMPLAINT
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

I. CAPTION

Hozay Royal
(Enter the full name of the plaintiff or
plaintiffs)

v.

Michael F. Fahy

Edward G. Miles

(Enter the full name of the defendant or
defendants)

04cv2368

FILED

JUN 3 2004

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

II. PARTIES

a. Plaintiff

Full name: Hozay Royal aka Carlos Johnson

Prison identification number: FE-8386

Place of present confinement: SCI-Mahanoy

Address: 301 Morea Road, Frackville, PA 17932-0001

**Place of confinement at time of incidents or conditions alleged in
complaint, including address:**

2241 Reed Street, 1st Floor Apt., Philadelphia, PA 19146

Additional plaintiffs: Provide the same information for any additional
plaintiffs on the reverse of this page or on a separate sheet of paper.

b. Defendants: (list only those defendants named in the caption of the
complaint, section I)

1. **Full name including title:** Michael F. Fahy, Badge #9214, Detective

Place of employment and section or unit: Phila. Police Dept., Major Crimes Unit

2. **Full name including title:** Edward G. Miles, Badge #9135, Detective

Place of employment and section or unit: Phila. Police Dept., Major Crimes Unit

3. **Full name including title:** _____

Place of employment and section or unit: _____

4. **Full name including title:** _____

Place of employment and section or unit: _____

Additional defendants: Provide the same information for any additional
defendants on the reverse of this page or on a separate sheet of paper.

III. PREVIOUS LAWSUITS

Instructions:

If you have filed other lawsuits in any federal or state court dealing with the same facts as this complaint or other facts related to your imprisonment, you must provide the information requested below. If you have not filed other lawsuits, proceed to Section IV, Administrative Remedies, on this page.

If you have filed other lawsuits, provide the following information.

Parties to your previous lawsuit:

Plaintiffs _____

Defendants _____

Issues: _____

Court: if federal, which district? _____

if state, which county? _____

Docket number: _____ Date filed: _____

Name of presiding judge: _____

Disposition: (check correct answer(s)); Date: _____

Dismissed _____ Reason? _____

Judgment _____ In whose favor? _____

Pending _____ Current status? _____

Other _____ Explain _____

Appeal filed? _____ Current status? _____

Additional lawsuits. Provide the same information concerning any other lawsuits you have filed concerning the same facts as this action or other facts related to your imprisonment. You may use the back of this page or a separate sheet of paper for this purpose.

IV. ADMINISTRATIVE REMEDIES

Instructions:

Provide the information requested below if there is an administrative procedure to resolve the issues you raise in this complaint. Examples of administrative procedures include review of grievances, disciplinary action, and custody issues. If no administrative procedures apply to the issues in this complaint, proceed to Section V, Statement of Claim, on page 4.

- a. **Describe the administrative procedures available to resolve the issues raised in this complaint:**

Type of procedure. (grievance, disciplinary review, etc.)

Authority for procedure. (DC-ADM, inmate handbook, etc.)

Formal or informal procedure.

Who conducts the initial review?

What additional review and appeals are available?

- b. **Describe the administrative procedures you followed to resolve the issues raised in this complaint before filing this complaint:**

On what date did you request initial review?

What action did you ask prison authorities to take?

What response did you receive to your request?

What further review did you seek and on what dates did you file the requests?

What responses did you receive to your requests for further review?

- c. **If you did not follow each step of the administrative procedures available to resolve the issues raised in this complaint explain why.**

V. STATEMENT OF CLAIM

Instructions:

State here as briefly as possible the facts of your case. Use plain language and do not make legal arguments or cite cases or statutes. State how each defendant violated your constitutional rights. Although you may refer to any person, make claims only against the defendants listed in the Caption, Section I. Make only claims which are factually related. Each claim should be numbered and set forth in a separate paragraph with an explanation of how the defendants were involved. Use the reverse of this page or a separate sheet of paper if you need more space.

Statement of claim:

On August 14, 2002, the plaintiff was arrested at his residence, 2241 Reed Street, 1st Floor Apt., Philadelphia, PA 19146, pursuant to a search and arrest warrants obtained through affidavit containing misrepresentations and omissions, and the defendants violated plaintiff's Fourth Amendments Rights.

The plaintiff will offer as proof that he was not walking towards a Maroon Mitsubishi Gallant. On page two (2) of the affidavit (See exhibit "A", attached), which served as the basis for securing the search and arrest warrants, defendant Fahy in ¶3 omitted this fact. However, he states in part, "...and he exited the front door to the UPS facility, and walked into the parking lot, towards a Maroon Mitsubishi Gallant, bearing Pa tag #ERS-6779. He was arrested

cont. next page -

VI. RELIEF

Instruction: Briefly state exactly what you want the Court to do for you.

Relief sought:

Compensatory and Punitive damages in the amount of \$1,000,000.00 for each named defendant.

VII. DECLARATION AND SIGNATURE

I (we) declare under penalty of perjury that the foregoing is true and correct.

May 28, 2004
DATE

Hozay Royal
SIGNATURE OF PLAINTIFF(S)

in the parking lot, and recovered in his pocket was the ID card, and the keys for the Mitsubishi."

Defendant Fahy omitted the fact that an unmarked police vehicle was driven in front of the door to the UPS facility and blocked the plaintiff from walking into the parking lot. Plaintiff was then handcuffed and placed in the back seat of the unmarked vehicle. Plaintiff never got into the parking lot, therefore, there is no way of knowing what direction or what vehicle plaintiff was walking towards. This omission and the mistatement is material to the finding of probable cause. Without knowing what vehicle plaintiff was walking towards, the defendants had to falsify their statement to justify how they came upon the Maroon Mitsubishi Gallant.

After stopping the plaintiff as soon as exiting the UPS facility, defendant Fahy handcuffed and placed plaintiff in the back seat of the unmarked police vehicle and queried plaintiff about how he got to the UPS facility. Defendant Fahy the searched plaintiff and retrieved car keys and gave them to defendant Miles, whereupon, defendant Miles tried several vehicles to fit the keys in. After a few unsuccessful attempts, defendant Miles opened a Maroon Mitsubishi Gallant and searched it and confiscated a black zippered leather bag from the back seat, and then opened the bag and confiscated several papers, including a list of fifty-six (56) credit card numbers and a pager service agreement from VIP/Uptown Paging.

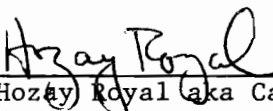
Defendants did not have a warrant to search the Maroon Mitsubishi Gallant, nor did they secure a warrant to search the zippered leather bag containing various papers. There was no exigent circumstances.

The pager service agreement from VIP/Uptown Paging has the name: Y. Bilal, address: 2241 Reed Street, Philadelphia, PA 19146, phone: (215) 389-4023, for pager number: (215) 800-6504. Plaintiff will offer as proof he has never been in VIP/Uptown Paging, located at 124 West Cheltenham Avenue for a pager service agreement. Plaintiff will offer proof the defendants forged the name: Y. Bilal, address: 2241 Reed Street, Philadelphia, PA 19146, and, phone: (215) 389-4023 on the pager service agreement. **(See exhibit "B", attached)**

As a matter of Constitutional Law and U.S. Supreme Court precedent everything found in the black zippered leather bag should be suppressed and deleted from the affidavit for probable cause. Plaintiff will offer as proof the defendants knowingly and deliberately, or with a reckless disregard for the truth, made false statements or omissions that created falsehood in applying for warrant; and that the statements or omissions were material or necessary to finding of probable cause.

Respectfully submitted,

Dated: May 28, 2004



Hozay Royal aka Carlos Johnson
#FE-8386
SCI-Mahanoy
301 Morea Road
Frackville, PA 17932-0001

Page 2

WARRANT NO 271323
DC NO 02-04-17942Commonwealth of Pennsylvania
County of Philadelphia

SS:

Contact: Nancy McCarthy, fraud investigator for Visa stated that Visa card #4561-6530-0144-7175 was issued by Societe Generale bank of France, to Mr. Alain Boulier, who resides in Paris France. Mr. Boulier has contested the charges to Tom James Shoes, has never ordered anything from Tom James' Shoes, and never authorized anyone else to do so.

McCarthy further stated that Visa card #4973-6520-0142-2545 was issued by Societe Generale bank of France, to Mr. Claudy Gonzague, who resides in Paris France. Mr. Gonzague has contested the charges to Tom James Shoes, has never ordered anything from Tom James' Shoes, and never authorized anyone else to do so.

On 5/2/2002, members of the Major Crimes Division set up a surveillance of the UPS customer service counter located at 15 Oregon Ave., to observe the pick up of the package addressed to J. Smith, which was shipped to 2241 Reed St. by the Tom James Shoe Company of Charleston, S.C. Det. Fahy was watching the counter, as a male later identified as Hozay Royal, entered and asked for that package, and identified himself as James Smith. He presented an ID card bearing his photo, and the name James Smith, with the address 2241 Reed St. He was given the package, and he exited the front door of the UPS facility, and walked into the parking lot, towards a Maroon Mitsubishi Gallant, bearing Pa tag #ERS-6779. He was arrested in the parking lot, and recovered in his pocket was the ID card, and the keys for the Mitsubishi.

Royal asked Fahy to lock the Mitsubishi for him. Fahy did so, and found in plain view, on the front seat, a black zippered bag, which was open, and a shoe catalog could be seen inside. It was confiscated, and upon further inspection, was found to contain a list of 56 separate credit card numbers, including both of the credit card numbers used in the above listed fraud, on faxed sheets of paper, from the Canoun Beach Hotel, along with a receipt for the first order shipped by Tom James Shoes on 4/10/02, a business card for the complainant Doug Oyer, and a note from Mr. Oyer to James, thanking him for his business. Numerous sheets of paper, bearing handwritten notes referring to various merchants throughout the U.S., Canada, and the Caribbean, were found, including several contained in this affidavit.

Also found was a receipt from VIP/Uptown Paging, located at 124 W. Cheltenham Ave., for a pager service agreement, in the name Y. Bilal, listing his home phone #215-389-4023, and an address of 2241 Reed St., Phila. Pa. 19146, for pager service, on pager #215-800-6504.

Contact: Leilani Naudan, was interviewed and stated in summary that she is the granddaughter of the owner of the Canouan Beach Hotel, and that on 3/15/2002, she received a telephone call from a person who identified himself as James Dennis, and said he was a representative of the Visa MasterCard center. He told her that there was a computer problem, and that he needed all of the open accounts for the day, or else no money would be paid to the hotel for that day's business. She read some card numbers over the telephone to him, and he requested to fax the numbers. She was given two fax numbers, 215-567-2217 & 215-567-2218, and the number, 215-389-4023. She stated that she faxed messages to both of those numbers.

Det. Michael Fahy
Signature of Affiant#9214
BadgeMCD
District/Unit

Subscribed and affirmed before me on

May 2, 2002

★ VIP/UPTOWN PAGING ★

★ Chestnut Street
★ 1110 Chestnut St
★ 215-413-8121

★ 17th & Chestnut
★ 46 South 17th St.
★ 215-496-9605

★ Chelton
★ 60 West Chelton Ave.
★ 215-844-7000

★ Uptown
★ 124 West Chelton Ave.
★ 215-438-4970

★ Boulevard
★ 6300 Roosevelt Blvd.
★ 215-533-5963

PAGER SERVICE AGREEMENT

ACCOUNT INFORMATION

Customer Name: V. Bilal Phone: (215) 399-4023
 Address: 2241 Reed Street
 City: Phila State: PA Zip Code: 19146

PAGER INFORMATION

PAGER NUMBER: 215-800-6504
 CAPCODE: 1498195
 CARRIER: TS V.M. CODE: 6504 BEEPER TYPE: Blow Plus

SERVICE INFORMATION

Rates: 1mo = \$5.99 3mo = 20.00 6mo = \$35.00 1yr = \$50.00

★ Free Long Distance ★ Free VoiceMail ★ Unlimited Calls ★

TOTAL DUE: \$ 36 NEXT PAYMENT DUE 4/1/03

VIP/UPTOWN PAGING:

1. Agrees to lease air time to customer on a prepaid monthly basis.
2. Shall not be responsible for loss or damage to beeper unless otherwise specified.
3. Can not guarantee 100% reception due to terrain, battery failure, or other conditions beyond its control.

CUSTOMER:

1. Assumes responsibility for maintaining beeper in proper working condition.
2. Agrees to pay for service on or before specified due date.
3. Will notify VIP/UPTOWN PAGING in a timely manner, of any address change.
4. Will notify VIP/UPTOWN PAGING in a timely manner, any desire to modify or cancel pager service.
5. Is 18 (eighteen) years of age or older.

Customer Signature: V Bilal Date: 3/28